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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

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In re:

AMENDMENT OF SECTION 73.606(b)
TABLE OF ALLOTMENTS
TV BROADCAST STATIONS
ST. LOUIS, MISSOURI

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SEP 20 1996
MM Docket No. FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

TO: Chief, Allocations Branch
Policy and Rules Division

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PETITION FOR RULEMAKING

St. Louis Regional Educational and Public Television Commission ("St. Louis Regional"), by its attorneys and pursuant to the Commission's Rules, hereby requests that the Commission institute a rulemaking proceeding to amend Section 73.606(b) of its Rules to substitute reserved NTSC Channel *52 in lieu of vacant reserved NTSC Channel *40 at St. Louis, Missouri.^{1/} This substitution of reserved NTSC channels would serve the public interest by preserving an educational channel at St. Louis that is compatible with the Commission's proposed DTV Table of Allotments and thereby makes possible an additional local source of noncommercial educational programming to the area.

St. Louis Regional proposes the following amendment to Section 73.606(b) of the Commission's Rules:

<u>Community</u>	<u>Present</u>	<u>Proposed</u>
St. Louis	2, 4-, 5-, *9, 11-, 24+, 30+, *40-, 46	2, 4-, 5-, *9, 11-, 24+, 30+, 46, 52

^{1/} St. Louis Regional is the licensee of noncommercial educational television station KETC(TV), Channel 9, St. Louis, Missouri.

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In support of this petition, St. Louis Regional submits the following:

A. The Proposed Changes to the Table of TV Allotments Will Serve the Public Interest

The proposed changes to the Table of TV Allotments will serve the public interest and result in a preferential arrangement of allotments.

The proposed substitution will allow activation of a new station in circumstances where, because the existing vacant reserved allotment (Channel *40) has likely been rendered unusable by the Commission's proposed DTV Table of Allotments, the station could not otherwise be licensed. In August of 1996, the Commission released the *Sixth Further Notice of Proposed Rule Making* in MM Docket No. 87-268 (the "*Sixth Further Notice*"), which included a draft table of digital television ("DTV") allotments for existing TV stations and an extensive discussion of allocation policies and procedures.^{2/} Under the Table of DTV Allotments proposed by the FCC in the *Sixth Further Notice*, Channel *40 is no longer usable as an NTSC channel given the proximity of Channel *40 and other DTV channels proposed for use in the St. Louis market and adjacent markets.

In view of its interest in providing additional educational TV service to the St. Louis area, St. Louis Regional performed an exhaustive study of NTSC channels in the St. Louis area that could be utilized without interference to or from existing NTSC allotments or the proposed

^{2/} The *Sixth Further Notice* provided parties 30 days to file new NTSC applications for vacant allotments. St. Louis Regional is filing an application for a new noncommercial educational TV Station on Channel *52, St. Louis, Missouri, in conjunction with this Petition for Rulemaking. We ask that the Commission permit the simultaneous Petition for Rulemaking and application -- St. Louis Regional is filing the Channel *52 application at this time only to meet the 30-day deadline on new NTSC applications imposed by the *Sixth Further Notice*.

DTV allotments. Channel 52 satisfies these requirements.^{3/} Therefore, St. Louis Regional proposes substitution of Channel *52 for the Channel *40 allotment.

The proposed substitution of reserved NTSC channels will also make possible activation of a TV facility that will provide an additional noncommercial educational service for St. Louis and its surrounding counties. For example, in St. Louis Regional's application (filed simultaneously with this Petition), the Grade B contour of the proposed Channel *52 station will encompass a population of 2,624,725 persons and an area of 22,873 square kilometers. See attached Engineering Statement. Without the substitution making possible the activation of a new noncommercial station, these St. Louis area residents will be deprived of this new educational TV service from a channel long-reserved for their benefit.

B. Channel *52 at St. Louis, Missouri, Should Continue to Be Reserved for Noncommercial Educational Use.

The proposed change in allotments is consistent with long-standing Commission policy favoring development of noncommercial educational telecommunications services. For example, Commission policy clearly mandates the preservation of educational channels for their intended use. See, e.g., Television Channel Assignments, 60 RR2d 784 (1986). Absent an alternative channel, the Commission has been particularly reluctant to delete or reallocate a reserved channel. Id. Even absent the present or planned use of the reserved channel, the Commission has maintained its reluctance towards channel deletion. Ogden, Utah, 42 Fed. Reg. 40302 (1977). In assigning television channels on a reserved basis, the Commission intended for the channels to serve not only the present needs for noncommercial educational service, but

^{3/} See attached Engineering Statement.

future demands for the service as well. See Mansfield and Marion, Ohio, 48 RR2d 1003 (1980). Commission policy clearly favors the activation of long-vacant channels. See e.g., Montrose and Scranton, Pennsylvania, 68 RR2d 702 (1990).

The purpose of this petition is to substitute a channel, for which St. Louis Regional intends to apply (and, indeed, has now applied), so that St. Louis Regional may activate an additional noncommercial educational outlet in the St. Louis area. St. Louis Regional has ascertained that its audience in the area would use and enjoy a variety of additional noncommercial and educational programs; however, there are simply not enough hours in the KETC(TV) broadcast day to air all these programs. The station currently has several programs available for every time slot in the KETC(TV) daily schedule. Moreover, St. Louis Regional is a PBS member station and PBS is incorporating digital compression technology on the new AT&T Telstar 301 satellite which will allow for the distribution of even more programs and services that could benefit the community. St. Louis Regional could use the additional channel capacity of Channel *52 in order to bring this programming to the communities in the greater St. Louis area.

CONCLUSION

For all of these reasons, St. Louis Regional requests that the Commission institute a rulemaking proceeding to amend Section 73.606(b) of its Rules to substitute Channel *52 at St. Louis, Missouri, for vacant and unusable Channel *40 at St. Louis, Missouri, and to continue its reservation for noncommercial educational use.

Respectfully submitted,

ST. LOUIS REGIONAL EDUCATIONAL AND PUBLIC
TELEVISION COMMISSION

By: Todd D. Gray
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September 20, 1996

DECLARATION UNDER PENALTY OF PERJURY

I, Michael Hardgrove, President of St. Louis Regional Educational and Public Television Commission, hereby declare under penalty of perjury that the foregoing facts set forth in this Petition for Rulemaking to amend Section 73.606(b) of the Commission's Rules are true and correct to the best of my knowledge and belief.

As stated in the Petition, the petitioner is simultaneously filing an application for the channel proposed to be substituted, which should be viewed as evidence of its good faith intention to utilize the proposed channel.

By: _____

Title: President & CEO

Date: 9/19/96



**ENGINEERING STATEMENT
RE PETITION FOR RULE MAKING TO
SUBSTITUTE TV CHANNEL 52 FOR 40 AT
ST. LOUIS, MISSOURI**

SEPTEMBER 1996

**COHEN, DIPPELL AND EVERIST, P.C.
CONSULTING ENGINEERS
RADIO AND TELEVISION
WASHINGTON, D.C.**

COHEN, DIPPELL AND EVERIST, P. C.

City of Washington)
) ss
District of Columbia)

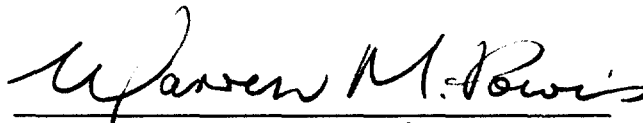
Warren M. Powis, being duly sworn upon his oath, deposes and states that:

He is a graduate electrical engineer of the University of Canterbury, New Zealand, a Registered Professional Engineer in the District of Columbia, the State of Virginia, the State of South Carolina and Vice President of Cohen, Dippell and Everist, P.C., Consulting Engineers, Radio - Television, with offices at 1300 L Street, N.W., Suite 1100, Washington, D.C. 20005; previously employed for 15 years with the New Zealand Broadcasting Corporation; a member of the Institution of Professional Engineers New Zealand (IPENZ), the Association of Federal Communications Consulting Engineers (AFCCE), and the National Society of Professional Engineers (NSPE).

That his qualifications are a matter of record in the Federal Communications Commission;

That the attached engineering report was prepared by him or under his supervision and direction and,

That the facts stated herein are true of his own knowledge, except such facts as are stated to be on information and belief, and as to such facts he believes them to be true.



Warren M. Powis
District of Columbia
Professional Engineer
Registration No. 8339

Subscribed and sworn to before me this 19th day of September 1996.



Notary Public

My Commission Expires: 2/28/98

This engineering statement has been prepared on behalf of St. Louis Regional Educational and Public Television Commission in support of its petition for a rule making to substitute non-commercial Channel 52* (z) (698-704 MHz) for non-commercial Channel 40* (-) (626-632 MHz) at St. Louis, Missouri, by amending Section 73.606 (Table of Allotments) of the Commission's Rules. The requested substitution of TV channels will permit an activation of non-commercial NTSC-TV operation for St. Louis, Missouri, which would not be in conflict with the FCC's proposed DTV Table of Allotments.

The proposed changes would be in full compliance of the Commission's minimum distance rules.

The following amendment of the TV Table of Allotments is requested.

<u>Community</u>	<u>TV Channel No.</u>	
	<u>Present</u>	<u>Proposed</u>
St. Louis, MO	40-*	52*

The applicant requests the Commission that the substituted Channel 52* continue to be reserved for non-commercial educational use by St. Louis Regional Educational and Public Television Commission which has concurrently filed an application to specify operation on the new channel.

A TV allocation study indicates the channel can be allotted according to the Commission's minimum distance separation rules (Sections 73.610 and 73.698) by the substitution of Channel 52* (z) for Channel 40* (-) at St. Louis, Missouri.

The attached map (Exhibit E-1) shows the minimum distance separation arcs from the pertinent stations and allotments for Channel 52 operation at St. Louis, Missouri, and the area where an antenna site can be located.

The proposed St. Louis Regional Educational and Public Television Commission antenna site has been selected as a reference antenna site and meets the minimum distance separation requirements to all the existing and proposed TV stations and allotments. The geographic coordinates of the Channel 52 reference site (proposed antenna site) are as follows:

North Latitude: 38° 28' 56"

West Longitude: 90° 23' 53"

There is no other Channel 52 (z) TV operation or allotment within 450 km of the proposed Channel 52 reference site at St. Louis, Missouri. The attached Table I shows the actual and required distances to the pertinent existing TV stations and allotments from the Channel 52 reference site at St. Louis, Missouri. All distances were computed according to Section 73.611 of the Commission's Rules using the authorized or reference geographic coordinates of the TV stations or allotments.

Under MM Docket 87-268, the Commission had ordered a temporary freeze on construction permit applications for TV allotments now vacant within certain

metropolitan areas. It is believed the freeze is, however, not applicable to the proposed channel substitutions. Since the St. Louis Regional Educational and Public Television Commission proposal would not impact the Commission's inquiry on the development and uses of advanced TV systems in MM Docket No. 87-268.

It has been demonstrated above that UHF-TV Channel 52* (z) (698-704 MHz) can be substituted for UHF Channel 40* (-) to St. Louis, Missouri, according to the minimum distance separation requirements of Sections 73.610 and 73.698 and the City Grade coverage requirement of Section 73.685 of the Commission's Rules. Therefore, St. Louis Regional Educational and Public Television Commission requests the Commission to amend Section 73.606 of its Rules to allot UHF-TV Channel 52* (z) and delete Channel 40* (-) in St. Louis, Missouri.

COHEN, DIPPELL AND EVERIST, P. C.

TABLE I
NTSC-TV ALLOCATION SITUATION
FOR THE PROPOSED CHANNEL 52 OPERATION AT
ST. LOUIS, MISSOURI
SEPTEMBER 1996

<u>Channel</u>	<u>Call</u>	<u>City/State</u>	<u>Geographic Coordinates</u>	<u>Distance</u>	
				<u>Actual km</u>	<u>Required km</u>
52 (z)	Prop.	St. Louis, MO	38-28-56 90-23-53	--	--
37	None within 200 km			--	119.9
38	None within 200 km		--	--	95.7
44	None within 200 km		--	--	31.4
45	Allot.	Sikeston, MO	36-52-36 89-35-12	192.0	95.7
47	None within 200 km		--	--	31.4
48	None within 200 km		--	--	31.4
49	WCFN	Springfield, IL	39-42-27 89-30-53	164.1	31.4
50	None within 200 km		--	--	31.4
51	WEIU-TV	Charleston, IL	39-28-43 88-10-21	222.3	87.7
52	None within 320 km		--	--	280.8
53	None within 200 km		--	--	87.7
54	None within 200 km		--	--	31.4
55	WRSP-TV	Springfield, MO	39-47-56 89-26-45	167.8	31.4
56	None within 200 km		--	--	31.4
57	None within 200 km		--	--	31.4
59	None within 200 km		--	--	95.7
60	None within 200 km		--	--	31.4
66	None within 200 km		--	--	95.7
67	None within 200 km		--	--	119.9

COHEN, DIPPELL AND EVERIST, P. C.

TABLE I-A
DTV ALLOCATION SITUATION
FOR THE PROPOSED CHANNEL 52 OPERATION AT
ST. LOUIS, MISSOURI
SEPTEMBER 1996

<u>Channel</u>	<u>Call</u>	<u>City/State</u>	<u>Geographic Coordinates</u>	<u>Distance</u>	
				<u>Actual km</u>	<u>Required km</u>
52 (z)	Prop.-NTSC	St. Louis, MO	38-28-56 90-23-53	--	--
37	None within 200 km		--	--	*
38	WGEM-DTV	Quincy, IL	39-57-03 91-19-54	181.9	*
44	None within 200 km		--	--	*
45	WRSP-DTV	Springfield, IL	39-47-56 89-26-45	167.8	*
47	WHSL-DTV	East St. Louis, IL	38-23-18 90-29-16	13.0	*
48	KSDK-DTV	St. Louis, IL	38-34-05 90-19-55	11.1	*
49	None within 200 km		--	--	*
50	WCFN-DTV	Springfield, IL	39-47-27 89-30-53	164.1	*
51	WPSD-DTV	Paducah, KY	37-11-31 88-58-53	189.9	*
52	None within 320 km		--	--	244.6
53	None within 200 km		--	--	*
54	None within 200 km		--	--	*
55	None within 200 km		--	--	*
56	None within 200 km		--	--	*
57	None within 200 km		--	--	*
59	None within 200 km		--	--	*
60	None within 200 km		--	--	*
66	None within 200 km		--	--	*
67	None within 200 km		--	--	*

*No allotments permitted between 24.1 km and 96.6 km.

